



Federal Communications Commission
Washington, D.C. 20554

DA 03-616
MB-ILR 03-2
Released: March 4, 2003

Robert H. Jackson
Reed Smith LLP
1301 K Street, N.W.
Suite 1100 – East Tower
Washington, D.C. 20005

Re: Emergency Petition
Against Charter Communications, Inc.
Kearney, Nebraska

Dear Mr. Jackson:

This is in response to a January 28, 2003, Petition you filed on behalf of Great Plains Radiology and Nuclear Medicine, P.C. ("GPR"). This filing is directed against Charter Communications, Inc. ("Charter"), a provider of cable television and high speed Internet access in Kearney, Nebraska, and complains generally that Charter has failed to provide adequate Internet access connections and service to GPR.

You ask that the Commission take jurisdiction over this matter and direct Charter to assign personnel and resources to ensure that its cable Internet access service operates in a manner satisfactory to GPR. In the alternative, you urge the Commission to declare that the City of Kearney, Nebraska, may exercise jurisdiction over this service.

The Commission, in its *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities*, 17 FCC Rcd 4798 (2002), concluded that high speed Internet access over cable systems is an interstate information service under Title I of the Communications Act, not a cable service under Title VI. Contemporaneous with that decision, the Commission issued a *Notice of Proposed Rulemaking* seeking comment, *inter alia*, on how the Title I classification affected certain aspects of state or local regulation of cable Internet services, including consumer protection and customer service regulation. These and other regulatory issues related to cable Internet access service remain pending before the Commission.

Accordingly, although I can appreciate the concerns raised in your filing, no basis in the rules exists at this time to provide the requested relief. Nor would it be possible to attempt to adjudicate these issues without prejudging the very matters under review in the pending

rulemaking. Until such time as the Commission takes action on these matters, we are not in a position to consider granting the relief you seek and your petition, therefore, is dismissed.

Sincerely,



W. Kenneth Ferree
Chief, Media Bureau

cc: Curtis Shaw, Charter Communications
Hon. Bruce Blankenship, Kearney, NE
G. Allen Johnson, Kearney, NE
Steve Davis, Kearney, NE